

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6656 of 2007()

[CRIME NO.150/2007 OF ARYANCODE POLICE STATION]

PETITIONER/ ACCUSED:

KILAKKAN @ THANKAN, RESIDING AT
MELEKARIKKOTTU KUZHI, KEEZHATTOOR VILLAGE,
ARYANCODE, THIRUVANANTHAPURAM.

BY ADV. SRI.S.VISHNU

RESPONDENTS: COMPLAINANTS:

1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
ARYANCODE POLICE STATION, THIRUVANANTHAPURAM DIST.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

B.A.No.6656 of 2007

Dated this the 31st day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable inter alia under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. According to the petitioner, he is absolutely innocent. It is prayed that anticipatory bail may be granted to the petitioner.

2. In the light of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, this court is not jurisdictionally competent to grant anticipatory bail. There is no contention before me that the allegation does not constitute an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. In such event, of course, it is possible to contemplate the invocation of powers under Section 438 Cr.P.C notwithstanding the fact that Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act finds a place in the F.I.R.

3. The learned counsel for the petitioner then submits that there may at least be a direction to the learned Magistrate to consider the application for regular bail on merits, in accordance with law and expeditiously. The petitioner apprehends that the learned Magistrate may not consider the application for regular bail to be filed by the petitioner when he surrenders because the offence is triable exclusively by a Special/Sessions court under Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. This court has time and again clarified in Ali v. State of Kerala [2000(2) KLT 280, Shanu v. State of Kerala [2000(3) KLT 452, Krishnakumar v. State of Kerala [20005(1) KLD(Cri.)42] and P.P.Kader v. State of Kerala [2005(1) KLD(Cri.)250] that the mere fact that the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is triable by a Special/Sessions court under Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act will not justify the learned Magistrate abdicating his jurisdiction under Section 437 Cr.P.C. The learned Magistrate is bound to consider the application for bail under Section 437 Cr.P.C on merits, in accordance with law and expeditiously.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007